

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELISA ANN MARSHALL,
Plaintiff,
v.
MARTIN O'MALLEY,
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

Case No. 1:24-cv-00224-HBK
ORDER GRANTING PARTIES'
STIPULATED MOTION TO REMAND
UNDER SENTENCE FOUR OF 42 U.S.C. §
405(g), REVERSING FINAL DECISION AND
REMANDING CASE¹
(Doc. No. 12)

Pending before the Court is the parties' joint motion to remand filed May 17, 2024. (Doc. No. 12). Plaintiff Elisa Ann Marshall and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision. *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney's fees under

¹ Both parties have consented to the jurisdiction of a magistrate judge in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 8).

1 the Equal Access to Justice Act and calculating deadline using date of final judgment). The
2 *Melkonyan* court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –
3 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a
4 judgment affirming, modifying, or reversing the decision of the Secretary, with or without
5 resetting the cause for a rehearing.” *Id.* (other citations omitted).

6 The Court grants the parties’ motion to remand under sentence four and reverses the
7 Commissioner’s final decision. As agreed upon by the parties, upon remand, the Commissioner
8 will instruct the ALJ to reevaluate the medical opinions and prior administrative medical findings,
9 reevaluate the claimant’s subjective complaints, reevaluate the claimant’s RFC, offer Plaintiff an
10 opportunity for a new hearing, and issue a new decision.

11 Accordingly, it is **ORDERED**:

- 12 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court grants the joint motion to
13 remand (Doc. No. 12) and REVERSES the Commissioner’s decision. This case is
14 REMANDED to the Commissioner of Social Security for further proceedings
15 consistent with this Order.
- 16 2. A motion for attorney fees may be filed within thirty (30) days.
- 17 3. The Clerk shall enter judgment in favor of Plaintiff, terminate any deadlines, and close
18 this case.

19
20 Dated: May 21, 2024


21 HELENA M. BARCH-KUCHTA
22 UNITED STATES MAGISTRATE JUDGE
23
24
25
26
27
28